REMARKS

Applicant cancelled claims 5 and 18, amended claims 1, 3, 4, 6, 12, 16, 17, and 19 (including independent claims 1 and 12), and added new claims 37 and 38 to further define Applicant's claimed invention. The amendments to independent claims 1 and 12 are supported at least by Figs. 1-4.

In the Office Action, the Examiner rejected claims 1-24 and 27-36 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,858,018 to Shipp et al. ("Shipp '018") in view of U.S. Patent No. 6,226,843 to Crainich ("Crainich") and U.S. Patent No. 6,290,575 to Shipp ("Shipp '575"). As discussed below, Applicant submits that independent claims 1 and 12, as amended, are patentable over the Examiner's rejection based on the combination of Shipp '018, Crainich, and Shipp '575.

In KSR International Co. v. Teleflex Inc. et al., the Supreme Court reaffirmed the framework for governing obviousness under 35 U.S.C. § 103(a) as set forth in Graham et al. v. John Deere Co. of Kansas City et al., 383 U.S. 1, 148 U.S.P.Q. 459 (1966). (*See* KSR v. Teleflex, 127 S.Ct. 1727 (2007).) Under Graham v. John Deere, a combination of references that does not teach or suggest each and every element of the claimed invention supports a finding of nonobviousness.

According to the Federal Circuit, "a searching comparison of the claimed invention – *including all its limitations* – with the teachings of the prior art" is required of the Examiner when determining whether a claim is obvious. (In re Ochiai, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added).) As such, "obviousness requires a suggestion of all limitations in a claim." (CFMT, Inc. v. YieldUP Int'l. Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003) (citing In re Royka, 490 F.2d 981, 985 (CCPA 1974)).) Accordingly, a combination of references that does not result in each and every limitation of the claimed invention can be determinative of finding of nonobviousness. As discussed below, the Examiner's combination of Shipp '018, Crainich, and Shipp '575 does not result in each and every limitation of amended independent claims 1 and 12.

As amended, independent claim 1 recites a surgical ligation clip including a connector that "is formed of multiple coil windings of said single piece of wire, said coil windings...are unwound when moving said clip from a closed position to an open position." Furthermore, as amended, independent claim 12 recites a surgical ligation clip for including a connector that "is formed of multiple coil windings of said single piece of material, said coil windings...are unwound when moving said clip from a closed position to an open position." By unwinding the connector when the surgical ligation clips of amended independent claims 1 and 12 are moved from a closed position to an open position, the clips are inherently easier to open and to maintain in an open position. Moreover, the combination of Shipp '018, Crainich, and Shipp '575, as discussed below, does not teach or suggest the above-listed recitations of independent claims 1 and 12.

Shipp '018, as shown in Figs. 2b-2d thereof, discloses a ligation clip (16) that includes a spring type connection joining a base (20) and a pressure arm (22). When the base (20) and the pressure arm (22) are moved apart from one another to open the ligation clip (16), the spring type connection is wound tighter. Shipp '575, as shown in Fig. 3 thereof, discloses a spring clip 10 that includes a coil spring 16 joining first arm 12 and second arm 14. Like the spring type connection of Shipp '018, the coil spring 16 is wound tighter when moving the first arm 12 and the second arm 14 apart from one another to open the spring clip 10. Therefore, unlike the claimed invention as recited in amended independent claims 1 and 12, the spring type connection of Shipp '018 and the coil spring 16 of Shipp '575 are wound tighter in opening the spring clip 16 and the ligation clip (16), respectively.

Furthermore, Crainich is directed to a clip [10] having a head portion [12] joining a first leg [14] and a second leg [16]. The first leg [14] and the second leg [16] are pivotable relative to one another. Unlike amended independent claims 1 and 12, however, the head portion [12] does not include multiple coil windings which are unwound when the first leg [14] and the second leg [16] are moved apart from one another to open the clip [10].

Given the lack of teachings in Crainich, in addition to the lack of teachings in Shipp '018 and Shipp '575, Applicant submits that the combination thereof does not result in the above-listed recitations of amended independent claims 1 and 12. Thus, the combination of Shipp '018, Crainich, and Shipp '575 does not teach or suggest each and every limitation of amended independent claims 1 and 12. Accordingly, Applicant submits that the Examiner's rejection of amended independent claims 1 and 12 under 35 U.S.C. § 103(a) cannot be maintained.

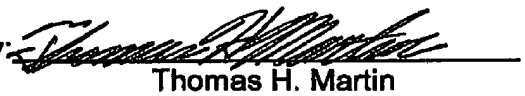
In conclusion, Applicant submits that amended independent claims 1 and 12 are patentable and that dependent claims 2-4, 6-11, 13-17, 19-24, and 27-38 dependent from amended independent claim 1 or 12, or claims dependent therefrom, are patentable at least due to their dependency from an allowable independent claim. Therefore, in view of the foregoing remarks, it is respectfully submitted that the claims, as amended, are patentable. Accordingly, it is requested that the Examiner reconsider the outstanding rejections in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: July 21, 2009

By: 
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